

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

INVENTOR(S) : Colin G. Caro et al.
TITLE : HELICAL GRAFT
APPLICATION NO. : 10/549,498
FILED : August 14, 2006
EXAMINING ATTORNEY : Megan Yarnall Wolf
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ART UNIT : 3738
CONFIRMATION NO. : 7739
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Cleveland, OH 44114
June 24, 2010

ADDITIONAL REMARKS

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Further to the Amendment dated June 15, 2010, applicant wishes to make the following additional observations concerning the secondary reference to Cymbalisty, U.S. Patent No. 6,896,007.

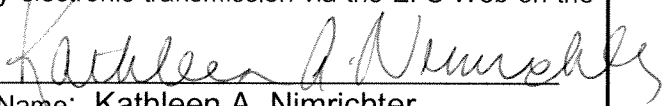
It is noted that Cymbalisty pertains to a static hydro-dynamic mixer for flowing fluidized slurries (see claim 1). Therefore, Cymbalisty discloses an industrial type mixer

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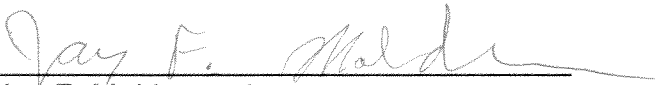

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as is illustrated, for example, in Figure 4. Thus, it pertains to a rigid pipe of significant size. The pipes of Cymbalisty are clearly intended to be rigid and not flexible in order to cope with the heavy materials passing therethrough. In contrast, the claimed invention pertains to a graft for biomedical use, with the flow tubing being flexible. Support for this limitation can be found on page 11 at line 10 of the application. It is there stated that the tubing can be made from flexible material such as synthetic fabric. In contrast, Cymbalisty deals with rigid pipes which are orders of magnitude larger than the claimed invention and which are meant to conduct fluidized slurries, not blood. Therefore, it is respectfully submitted that the person of skill in the art would not look to Cymbalisty for teachings relevant to flexible grafts because Cymbalisty is not concerned with flexible conduits. Rather, Cymbalisty merely teaches rigid pipes of large size meant for industrial processes, rather than flexible grafts for biomedical use as is recited in, e.g., independent claims 1, 3 and 37 of the pending claims.

Respectfully submitted,

FAY SHARPE LLP

June 24, 2010
Date


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